

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>SHAWN L. BURKS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 1:07-cv-00337-MEF-TFM</b>
	)	
<b>DAVE SUTTON, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' ANSWER**

COME NOW Sheriff Dave Sutton, Capt. Richard B. Moss, and Deputy Sheriff Glenn Shelton, the Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

**Answer**

The Defendants in this action deny each and every allegation made by the Plaintiff, Shawn Burks, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

**Affirmative Defenses**

1. The Plaintiff has failed to comply with the mandatory requirements of the Prison Litigation Reform Act, 42 U.S.C. § 1997e.
2. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
3. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's federal claims.
4. The Defendants in this action, in both their individual and official capacities, are entitled to absolute immunity from the Plaintiff's state law claims.

5. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.

6. The Defendants in their official capacities are not "persons" under 42 U.S.C. § 1983.

7. The Plaintiff fails to allege any affirmative causal link between the alleged acts of the Defendants and any alleged constitutional deprivation or the direct participation of the Defendants in any alleged constitutional violation.

8. The Defendants are not liable based upon *respondeat superior* theories of liability.

9. The Plaintiff is not entitled to an equitable remedy.

10. The Plaintiff is not entitled to punitive damages.

11. The Defendants reserve the right to supplement this Answer by adding additional affirmative defenses as the facts of this case are developed and if discovery is ordered by the Court.

Respectfully submitted this 13th day of July, 2007.

**s/Joseph L. Hubbard, Jr.**

GARY L. WILLFORD, JR., Bar Number: WIL198

JOSEPH L. HUBBARD, JR., Bar Number HUB015

Attorneys for Defendants

WEBB & ELEY, P.C.

7475 Halcyon Pointe Drive (36117)

Post Office Box 240909

Montgomery, Alabama 36124

Telephone: (334) 262-1850

Fax: (334) 262-1889

E-mail: [jhubbard@webbeley.com](mailto:jhubbard@webbeley.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 13th day of July, 2007, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Shawn Burks  
Elmore Correctional Facility  
P. O. Box 8  
Elmore, Alabama 36025

**s/Joseph L. Hubbard, Jr.**  
OF COUNSEL